

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

ARNOLD E. MARTIN, SR.  
FARA M.B. MARTIN  
DAWN A. MARTIN

v.

:

:

: CIVIL ACTION NO. JFM-02-3424

MITCHELL AVE PARTNERSHIP  
MICHAEL DAY  
ARTHUR SCHNEIDER  
LONG AND FOSTER REALTY  
ROSE GREENWALT

:

:

:

**MEMORANDUM**

On October 21, 2002 Arnold E. Martin, Sr., a resident of Williamsport, Maryland, filed the above-captioned action *pro se*,<sup>1</sup> seeking to remove a state court action alleging breach of a real estate sale to this Court. Because plaintiff appears to be indigent, he will be granted leave to file the instant action *in forma pauperis*, without prepayment of filing fees and costs. See 28 U.S.C. §1915(a).

It appears that plaintiff is attempting to relitigate a claim brought by him in the Washington County Circuit Court. This effort must fail. Plaintiff's claim against defendants appears to have been addressed in the State trial and appellate courts,<sup>2</sup> and in any event, this Court lacks diversity jurisdiction over the parties.

Furthermore, under 28 U.S.C. §1441(a), only the defendant(s) in the state court action have the ability to seek removal from state to federal court.

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<sup>1</sup> Mr. Martin included Fara M.B. Martin and Dawn A. Martin as additional party plaintiffs. These individuals did not sign the pleadings regarding removal, nor did they submit *in forma pauperis* affidavits or in any way indicate in writing that they wish to proceed with this removal action. Accordingly, they are not deemed parties to this attempt at removal.

<sup>2</sup> Indeed, the matter may be pending in the Maryland Court of Appeals.

Accordingly, a separate Order shall be entered dismissing the instant complaint, without requiring service of process upon and an answer from the named defendants.

October 28, 2002  
(Date)

J. Frederick Motz  
United States District Judge